

Members

Sen. Joseph Harrison, Chair
Sen. Thomas Weatherwax
Sen. Allie Craycraft
Sen. Larry Lutz
Rep. Thomas Kromkowski
Rep. Ron Liggett
Rep. Lawrence Buell
Rep. Richard Mangus
Steve Meno
Claude Davis
William Gettings, Jr
Connie Lux



PENSION MANAGEMENT OVERSIGHT COMMISSION

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Authority: IC 2-5-12-1

MEETING MINUTES¹

Meeting Date: October 28, 1999
Meeting Time: 10:30 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 128
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Joseph Harrison, Chair; Sen. Thomas Weatherwax; Sen. Allie Craycraft; Sen. Larry Lutz; Rep. Thomas Kromkowski; Rep. Ron Liggett; Rep. Lawrence Buell; Rep. Richard Mangus; Steve Meno; William Gettings, Jr; Connie Lux;

Members Absent: Claude Davis.

1. Judges Retirement System Issues

The Chair of the Pension Management Oversight Commission (PMOC), Sen. Harrison, called the third meeting to order at approximately 10:30 A.M. Sen. Harrison introduced the PMOC members and the staff. Sen. Harrison then recognized Judge Thomas Milligan, the Judge of the Circuit Court of Montgomery County and Vice-President of the Indiana Judges Association (IJA). Judge Milligan told the PMOC that Judge Mary Lee Comer, President of the IJA, was not able to attend the meeting. Judge Milligan addressed the PMOC on the following two issues that had been presented at the previous meeting of the PMOC:

A) Cost of Living Adjustment (COLA) for the Judges 1985 Pension Plan. This request, Judge Milligan said, would grant to judges the same COLA that is granted to members of the Public Employees Retirement Fund (PERF) and Teachers' Retirement Fund (TRF) by the General Assembly. The staff distributed a fiscal impact estimate of the two proposals. Judge Milligan explained to the PMOC that whenever the General Assembly grants a COLA to PERF and TRF recipients, judges in the 1985 Plan would receive the same percentage increase in their benefits.

¹Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

B. Add Magistrates to the 1985 Judges Pension Plan This proposal provides that full-time magistrates would be part of the 1985 Judges Plan.

In responding to a PMOC question, Judge Milligan stated that in the 1977 Judges Pension Plan there is no COLA, but that the 1977 Plan is based on the current salary of the member's former position. Judge Milligan also told the PMOC that magistrates are to judges what deputy prosecutors are to prosecutors, and that just as deputy prosecutors are members of the Prosecuting Attorneys Retirement Fund, magistrates should be members of the Judges' Retirement System. Judge Milligan remarked that both of these issues were brought before the PMOC during the 1998 interim, and both were approved by the PMOC.

Judge Milligan referred to the fiscal impact of these proposals and told the PMOC that providing a COLA to members of the 1985 Judges Plan would cost approximately \$604,000 over the next five years, or an average of about \$121,000 per year. He said that adding full-time magistrates to the 1985 Judge Plan would cost approximately \$126,000 over the next five years, or annual average of \$25,000.

Sen. Harrison said that when these issues were brought before the General Assembly during the 1999 legislative session, one issue died in the House of Representatives and one died in the Senate. Sen. Harrison asked the PMOC if it should recommend these issues to the General Assembly. He said that these issues likely would be assigned to the Senate Finance Committee and the House Ways and Means Committee. Rep. Kromkowski told the PMOC that he had carried the COLA bill last year. He said that it is a matter of priority and would like the PMOC to recommend it to the 2000 General Assembly.

The Chair called for two separate motions for the Judges Plan: one for the COLA issue and one for the magistrate issue. A motion for the COLA was made and seconded. The issue of adding a COLA to the 1985 Judges Plan was recommended for introduction in the 2000 Session of the General Assembly by a roll call vote of nine to zero. Next, a motion was made and seconded to add full-time magistrates to the 1985 Judges Plan. The issue of adding full-time magistrates to the 1985 Judges Plan was recommended for introduction in the 2000 Session of the General Assembly by a roll call vote of 9 to 0.

2. Prosecuting Attorneys Retirement Fund (PARF) Issues

Sen. Harrison next recognized Ms. Deborah Daniels, representing the Association of Indiana Prosecuting Attorneys. Ms. Daniels briefly described the issue concerning PARF. Ms. Daniels then introduced Mr. John A. Larson, Warren County Prosecuting Attorney. The staff distributed a letter from Ms. Daniels to Sen. Harrison, which prioritized the PARF issues into: A) First Priority; B) Second Priority; and C) Remaining Items. Mr. Larson listed the issues:

A) First Priority

- 1) Increase percentages used in computing retirement benefits
Increase in annual funding: \$455,000
- 2) Reduce the number of years required to vest from 10 years to 8 years
Increase in annual funding: \$47,100
- 3) Reduce the reduction factors for retirement before age 65
Increase in annual funding: \$85,000

B) Second Priority

- 1) Eliminate the requirement for member to contribute after 22 years of service
Increase in annual funding: \$2,700

C) Remaining Items

Mr. Larson said that while prosecutors have previously indicated an interest in the following items, they are not at the top priority of the Association.

- 1) Provide for the pro-ration of benefits for partial years of service
Increase in annual funding: N/A
- 2) Increase the percentages used in computing disability benefits
Increase in annual funding: \$30,900
- 3) Change the eligibility definition to inability to perform work as a prosecutor
Increase in annual funding: \$32,100
- 4) Eliminate the requirement of 5 years of service for disability benefits
Increase in annual funding: \$34,700

In response to a question from the Chair, Mr. Larson told the PMOC that there are approximately 60 full-time prosecutors in the state. It was determined that the Judges Retirement System is the only state-funded defined benefit pension plan in which the participants vest in eight years.

After Commission discussion, the Chair called for disposition of the PARF issues. Sen. Harrison said that he would like two motions to be made regarding the PARF issues. A motion was made and seconded to recommend the first priority for introduction in the 2000 Session of the General Assembly. The issue of adding the first priority to the Prosecuting Attorneys Retirement Fund was recommended for introduction in the 2000 Session of the General Assembly by a roll call vote of 9 to 2. Next, a motion to introduce the second priority in the 2000 Session of the General Assembly was made and seconded. This motion was adopted by a roll call vote of 10 to 1.

3. Taxation of Survivor and Disability Benefits for Police and Firefighters PD 3595

Sen. Harrison called upon Ms. Mary Beth Braitman of the law firm of Ice Miller Donadio & Ryan, outside counsel for the Public Employees Retirement Fund and the Teachers Retirement Fund, to discuss PD 3595. Ms. Braitman told the PMOC that PD 3595 addresses public safety survivor and disability benefits. Ms. Braitman then provided the PMOC with a section by section analysis of PD 3595.

Section 1, Ms. Braitman said, provides clarifying language to conform the Pension Relief distribution for survivor benefits to correct the cross-reference. Continuing, Ms. Braitman said that Section 2 of the bill, for post June 30, 2000, disabilities, separates line of duty and duty related disabilities in a new subsection (b) and non-line of duty disability in a new subsection (c). She said that this would support the IRS ruling request that benefits paid under subsection (b) are non-taxable and benefits paid under subsection (c) are taxable. Ms. Braitman also said that the current IRS ruling finds benefits paid under both situations are taxable because they are included in the same provision in the Indiana Code. Section 2 also provides for conversion from disability to retirement status at age 55.

Section 3, Ms. Braitman stated, creates the process of determining tax status of disability benefits and uses the 1977 Police and Firefighters Advisory Committee as a central decision and appeal point. This impacts the 1925 Police Pension Plan. Ms. Braitman said that Sections

4, 5, and 7 separate non-line of duty death benefits, line of duty death benefits, and pre-September 1, 1982, and post-September 1, 1982 line of duty benefits into separate provisions. The separation into separate provisions would be done without any change to the substantive law. She also said that this would support the IRS ruling request that non-line of duty death benefits are taxable and line of duty death benefits are non-taxable whether paid to spouse, children, or parents.

Mr. Braitman said that Section 6 (1925 Fund) strikes all death benefit language except funeral benefits, since benefits are now covered in Sections 4, 5, and 7 of PD 3595. The remaining sections of PD 3595 accomplish the same things as listed above for the 1937, the 1953, and the 1977 Funds, respectively. In response to a Commission question, Ms. Braitman said that there is no reciprocity in the police and firefighter pension funds for disability credit in other states.

Sen. Harrison next recognized Mr. Leo Blackwell of the Indiana Fraternal Order of Police (FOP). Mr. Blackwell told the PMOC that PD 3595 would allow members to have a non-taxable benefit without additional cost to the members or the state.

The Chair called upon Mr. Chuck Sosbe, Vice-President of the Professional Firefighters Union of Indiana. Mr. Sosbe said that he supports PD 3595 and that it would be good for the members.

A motion was made and seconded to recommend PD 3595 for introduction in the 2000 Session of the General Assembly. The motion to recommend PD 3595 was adopted by a roll call vote of 11 to zero.

4. Other Business - Social Security Coverage of Certain Students PD 3391

Ms. Braitman was recognized by Sen. Harrison to address the PMOC on PD 3391. Ms. Braitman told the Commission that PD 3391 allows the state to amend the federal-state agreement concerning Social Security coverage of public employees to exclude from coverage any service performed after June 30, 2000, in the employ of a school, college, or university if the service is performed by a student who is enrolled and regularly attending classes at the school, college, or university.

Rep. Kromkowski expressed some concern and said that this proposal will save students and the schools money, but yearly the tuition rates at colleges and universities continue to increase in excess of the annual inflation rate. He said that he would call upon the universities to reduce such large increases in tuition. In response to a question from Sen. Craycraft, Ms. Braitman said that this proposal affects those who are regularly enrolled in school. After some additional Commission discussion, Sen. Harrison called for disposition of PD 3391. A motion was made and seconded to recommend PD 3391. The Chair called for a vote, and PD 3391 was recommended for introduction by a roll call vote of 11 to one.

Sen. Harrison then briefly discussed the issue the taxation of federal retiree benefits and stated that the Commission had recommended that this issue be passed on to the Commission on State Tax and Financing Policy (CSTFP). He reiterated that this is a tax issue and not a pension issue. He also said that if any action is taken, there should be parity between state and federal retirees. Rep. Buell, who is also a member of the CSTFP, told the PMOC that the CSTFP did not hear the issue of taxation of federal retiree benefits at its last meeting.

5. Final Report

Sen. Harrison asked for disposition of the draft copy of the PMOC's final report which he said

had been mailed to Commission members last week. He said that the final report will incorporate PMOC's meeting, recommendations, and activities. A motion was made and seconded to accept the draft copy of the PMOC's final report. A roll call vote was taken, and the final report was adopted by a vote of 11 to zero.

With no further business, Sen. Harrison adjourned the meeting at approximately 12:08 P.M.